

# ARTICLE IX

## DEFINITIONS

### Section 9-1 Meaning of Certain Words

The following terms, unless specifically indicated to the contrary in the Ordinance, shall mean the following:

**Abutter** Any person or persons holding legal title to land which adjoins or is directly across the street or stream from land under consideration. (3-12-63) 3-9-82

**Accessory Building** A detached building on the same lot with the primary building, the use of which is clearly incidental to that of the primary building or use of the land. 3-12-63

**Administrative Official** The person delegated by the Board of Selectmen to administer the provisions of this Ordinance. 3-12-63

**Apartment** A room or set of rooms arranged for occupancy as a dwelling and containing a kitchen or cooking range. 3-14-89

**Aquifer** A geologic unit capable of yielding usable amounts of water. 3-13-84

**Building** Any structure that has a roof and is intended to shelter people, animals or chattel. 3-12-63

**Buffer** An upland area immediately adjacent to a jurisdictional wetland or body of water, usually specified by a setback distance from the edge, that server to filter surface water flowing into the wetland or body of water. (3-13-01)

**Cabin** A building used or rented for the purpose of overnight sleeping accommodations, generally on a transient basis. 3-12-63

**Driveway** A private lane from the public road traversing private property, ordinarily leading to a single residence. 3-10-87

**Dwelling** A structure that is designed or used as a place of residence for one families. 3-12-63

**Dwelling Unit** A structure or part of a structure used as a place of residence for one family. 3-12-63

**Family** One or more persons who live as a single housekeeping unit in a dwelling unit. 3-12-63

**Flashing Sign** Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity or color at all times when in use including any revolving illuminated sign. 3-6-73

**Floodway** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. 9-22-79

**Floor Area Ratio** The ratio of gross floor area to the total lot area. 3-4-75

**Frontage:** The continuous distance of any property line of a lot which abuts a legally accessible public street as classified by RSA 229:5, or a private road approved by the Planning Board. (3.6.04)

**Garage Type Sales** limited to a maximum of ten (10) days a year. The sum of the horizontal area of the several floors of a building and its accessory buildings on the same lot, measured from the exterior faces of the walls, and not including cellars, attics, porches, etc. not used as part of the principle use. 3-4-73

**Hazardous or Toxic Material or Liquids** Materials or liquids that pose a threat, present or future, to the environment, whether in use, storage or transit, including without exception hazardous waste identified and listed in accordance with section 3001 of the Resource Conservation and Recovery Act of 1976, and as may be amended from time to time. 3-13-84

**Home Occupation** - A home occupation is an accessory non-retail business or professional use incidental and subordinate to the dwelling use, occupying no more than 20% of the existing gross, heated floor area of the dwelling.  
(As amended 3-2-80, 11-2-82) 3-10-92 3-11-93 3-8-94 3-14-95

**Hotel/Motel** Structure/s which provide transients with temporary sleeping accommodations and do not include individual units which provide housekeeping accommodations in more than 10% of the units.

**House Trailer** A unit similar to a mobile home which is equipped with some or all of the following: running water, sanitary facilities, bath facilities, and toilet. 3-12-68

**Inn** A structure intended or designed to be used or which is used for sleeping purposes or paying guests and where a general kitchen and/or dining room may or may not be provided. 3-12-63

**Kennel** Any lot or premises on which four (4) or more dogs, other than personal pets, at least four (4) months of age, are kept, boarded, or trained whether in special structures or

runways or not. The foregoing definition shall specifically exclude veterinary clinics which are defined as a structure in which small animals or pets are given medical or surgical treatment and are cared for during the time of such treatment only. 11-2-82

**Lot** A tract of land occupied or capable of being occupied by a building or use and by accessory uses, including the open space provided for in this Ordinance. 3-12-63

**Lot of Record** A distinct tract of land recorded in a legal deed and plan filed in the records of Hillsborough County, New Hampshire. 3-12-63

**Minimal Impact Crossing** Minimal impact means the least environmentally damaging practicable alternative.

**Mixed Use Development** Any proposed or existing commercial development may have incorporated, a mixed use factor, consisting of residential units up to a maximum of twenty-five (25%) percent of the approved gross square footage of the commercial development. The residential units may be either attached or detached from the commercial structure/s and may have a maximum of one bedroom per five hundred (500) square feet of gross residential floor area. Such proposals are subject to Planning Board site review and all applicable health and safety requirements. 3-14-89

**Mobile Home** A dwelling accommodation designed to permit movement as a vehicle with or without wheels or skids in place and which is equipped with running water, sanitary facilities, bath facilities and toilet.

**Multi Family Housing** A structure or parcel of land containing more than one dwelling unit. 3-13-90

**Non-Conforming Use** A structure or land area that is lawfully occupied by a use that does not conform to the specifications of this Ordinance. 3-12-63

**Open Space** – As stated in Article IV, the Commercial, Limited Commercial and Industrial Zone shall not be utilized for construction, storage or parking/drives. (3-13-01)

**Open Space Development** Eliminated 11-2-82 3-14-89

**Open Space Plan**

**ALLOWED BY CONDITIONAL USE PERMIT** (3.6.04)

**PURPOSE** To provide for an alternative single-family development plan that would provide areas of open space, reduce the amount of road maintained by the Town, allow a predictable rate of development, and keep the integrity of existing zone densities intact.

**DENSITY:** The basic number of lots allowed per parcel:

**Option A:** The basic number of lots is the same as would be obtainable for a conventional subdivision of the same parcel using the existing Town Zoning and Subdivision Regulations and having public roads. The applicant shall provide the Planning Board with a Preliminary Plan of the parcel to establish the basic number of lots.

**Option B:** The basic number of lots is the same as would be obtainable for a conventional subdivision of the same parcel using the existing Town Zoning and Subdivision Regulations and having private roads. The land area used for the private roads may be divided by the minimum lot area and the resulting number is to be added to the basic number of lots. The applicant shall provide the Planning Board with a Preliminary Plan of the parcel including the area of land used for private roads to establish the basic number of lots.

**Minimum Parcel Area:** 10 acres in the Residential/Rural Zones. 25 acres in the Northern Rural and Northern Transitional Zones  
**Minimum Lot Area:**

40,000 square feet in the Residential/ Rural, Northern Rural, and Northern Transitional Zones. In the Northern Rural and Northern Transitional Zones, the average minimum lot area shall be 80,000 square feet, with a maximum lot area of five acres allowed for purpose of calculating the average minimum lot area.

**Minimum Lot Frontage and Width:** 100 feet at the edge of the road right-of-way with a width of 150 feet at the front structure setback line in the Residential and Rural Zones. 150 feet at the edge of the road right-of-way with a width of 200 feet at the front structure setback line in the Northern Rural and Northern Transitional Zones. No Class A or Class B reduced frontage lots shall be allowed in an Open Space Plan.

**Front Structure Setback:** 100 feet from existing Town roads and 75 feet from proposed roads in the Residential and Rural Zones, 300 feet from existing Town roads and 75 feet from proposed roads in the Northern Rural and Northern Transitional Zones.

**Side and Rear Structure Setback:** 30 feet in the Residential and Rural Zones. 40 feet in the Northern Rural and Northern Transitional Zones.

**Cul-de-sac Turnaround Lot Frontage:** 75 feet at the edge of the road right-of-way.

**Slopes and Wetlands:** No wetlands, no flood plain as defined in Art. IV, Sec. 4-10, or slopes over 20% will be used to compute the minimum lot area. No dwelling will be constructed on slopes over 15%. (3.6.04)

Number of Lots Per Minor Dead End Cul-de-sac: Twelve (12)

**Open Space:** The open space shall be of a shape and size to be of value as land suitable for outdoor non-commercial recreation and conservation. No open space will be disturbed or developed except with the approval of the Planning Board. The minimum area shall be the basic number of lots times 0.75 in the Residential and Rural Zones and time 2.0 in the Northern Rural and Northern Transitional Zones. Open space shall be permanently restricted from further subdivision as building lots. 3-13-90

**Phasing:** The Open Space Plan shall have a reasonable phasing plan based on the Town of Amherst Master Plan and Capital Improvements Plan and be defined in a maximum number of dwellings constructed (Building Permits) each twelve (12) month period commencing with the date of the first permit.

**Minor Dead End Cul-de-sac.** A road that does not carry traffic from other roads.

**Major Dead End Cul-de-sac.** A road that may carry traffic from other roads to existing Town roads.

**Private Road.** A road constructed to the Town of Amherst Subdivision Standards but that may have a reduced width right-of-way and roadway surface. The Planning Board shall require adequate covenants, restrictions, and agreements including a Home Owners Association to insure that the Town will have no liability or responsibility to maintain said road.

**Public Water Protection Wetlands** Wetlands identified in Section 4-11 for their critical role in protecting water supplies.

**Turnaround.** The end area of a cul-de-sac used to reverse direction. 3-14-89

**Parking Space.** An off-street space available for the parking of one motor vehicle and have an area of not less than 9' x 18' not including the driveways and passageways appurtenant thereto and giving access thereto and having direct access to a public way. (3-12-63) 3-12-85.

**Planned Residential Development ( PRD)** 11-2-82

#### **ALLOWED BY CONDITIONAL USE PERMIT** (3.6.04)

**PURPOSE:** Planned Residential Development allows an alternative pattern of land development to the pattern permitted in the Residential/Rural, Northern Rural, Northern Transitional and Commercial Zones. It is intended to encourage the preservation of open space and, at the same time, provide for a greater variety of housing types and affordability in the Town of Amherst at somewhat greater densities than permitted elsewhere in the Zoning Ordinance, without causing a

significant increase in the town-wide population density. It is envisioned that in a PRD, dwelling units will be constructed in clusters which are harmonious with neighborhood developments and housing, and with natural surroundings. These clusters shall detract neither from the ecological and visual qualities of the environment, nor from the value of the neighborhood, environment, or the Town. The PRD should contain a variety of housing types to accommodate the Master Plan purposes of encouraging a diversity of people, a variety of age groups of different interests, backgrounds, and economic levels. The overall site design and amenities should enhance the quality of living for the residents of the development and, in general, the neighborhood and the Town. The Board shall determine whether the proposed PRD, namely the site plan or layout, and number, type, and design of the proposed housing is suitable to the neighborhood within which it is to be located and is consistent with the Master Plan and its reasonable growth objectives. 3-14-89

#### CONDITIONS:

An applicant for approval of a proposed PRD shall make application to the Planning Board in the same fashion as specified in the Subdivision Regulations. In the course of review of the proposal by the Planning Board, the Board shall hear evidence presented by the applicant and determine whether, in its judgment, the proposal meets the objectives and purpose set forth above, in which event the Board may grant approval to the proposal subject to such reasonable conditions and limitations as it shall deem appropriate.

#### MINIMUM LOT AREA:

Planned Residential Developments may be permitted on single or adjacent tracts -of land, under one ownership, or to be brought under one ownership, which have a net tract area of no less than twenty (20) buildable, non-wetland acres in the Residential/Rural, and Commercial Zones, and thirty (30) buildable, non-wetland acres in the Northern Rural Zone, and twenty-five (25) buildable, non-wetland acres in the Northern Transitional Zone. Net tract area shall mean the total area of the tract or tracts less the area in the Wetlands Conservation District, Flood plain Conservation District, areas of slope equal to or greater than 20%, and soils with severe limitations as defined by the United States Department of Agriculture Soils Survey Interpretation Sheets of 1973, 1975 or 1976. On-site determination of soil types may be conducted at the request of the Board by an agent of the Hillsborough County Soil Conservation Service or a qualified soils scientist approved by the Town of Amherst. Only soils with slight or moderate limitations shall be included in the net tract area. PRDs may be built only on the net tract area. 3-14-89 (3-12-02) (3.6.04)

#### DENSITIES:

In a Planned Residential Development, density shall be determined by the following methods. In the Residential/Rural, and Commercial Zones, divide the net tract area by two (2) and multiply the result by four (4) if soils are of slight limitation, or three (3) if more than 50% of the net tract area is of moderate limitation. 3-10-87

In the Northern Rural Zone, divide the net tract area by 3.75 if more than 50% of the net tract area is classified as slight (multiply by four); or by 4.25 if more than 50% of the net tract area is classified as moderate (multiply by three). 3-10-87

In the Northern Transitional Zone, divide the net tract area by 2.88 if more than 50% of the net tract area soil is classified as slight (multiply by 4); or by 3.13 if more than 50% of the net tract area soil is classified as moderate (multiply by 3). 3-14-89

The result of these calculations shall be a number of bedrooms permitted in the entire development. "If bonuses, as explained below, are granted, the total number of bedrooms shall not exceed one and one-half the number of bedrooms calculated above. The number of bedrooms permitted in any PRD shall be determined by the Board to assure compliance with the purpose of PRD and shall not exceed the limit determined above. 3-10-87

For the purpose of this Ordinance, a bedroom may mean any room other than a kitchen, bathroom, living, or small utility room. In the review of the floor plan or plans, the Board, when appropriate, may deem floor space shown on said plans to constitute the number of bedrooms which could be reasonably built in that space, as opposed to the number of bedrooms shown. The Board may designate a room not to be a bedroom if it is clear that its use as a bedroom is unlikely in view of the layout of the unit or overall character of the PRD. The number of said bedrooms that shall be permitted in any one of the units proposed shall be fixed by the Board before the approval of the Final Review. The Board shall also approve the external architectural design of the PRD to ensure its compliance with the goals of this Ordinance as stated in the section on PURPOSE. The number of bedrooms permitted in the PRD shall be noted on the Final Plat. 3-13-84

All of the above notwithstanding, the total number of dwelling units within the PRD shall not exceed the total number of acres calculated as the net tract area. 3-10-87

#### PERMITTED USES:

There may permitted in any PRD, single family detached and single family attached, and multi-unit structures of any type without regard to dwelling unit configuration or form of ownership. It is envisioned that the housing types, while having different internal configurations, will have an external appearance that complements and is in general harmony with the natural surroundings of the PRD.

Up to 10% of the dwelling units may be mobile homes. The maximum height of any dwelling structure shall be thirty-five (35) feet, exclusive of chimneys or cupolas, measured from the lowest adjacent exterior elevation. For the purposes of this Ordinance, the following definitions shall apply:

Single Family Detached Dwelling Unit - any building designed for and occupied by not more than one family and which is not attached to any other dwelling unit by any means.

Single Family Attached Dwelling Unit - a single family dwelling attached to one other single family dwelling by a common vertical wall.

Multi-unit Structure - a building which contains from three (3) to six (6) dwelling units.

The Board shall determine the mix of housing types, number of dwelling units and structures, and the number of bedrooms for each dwelling unit. These shall be determined at the Final Review and be noted on the Final Plat.

#### OPEN SPACE:

All land in the PRD which is not covered by buildings, septic systems, wells, paved areas, service areas, or which is not set aside as private yards, patios, or gardens for the residents shall be treated as open space. The area of the open space shall be at least 40% of the total area of the PRD tract. Such land shall have a shape dimension, character, and location suitable to assure its use for park, recreation, conservation, or agricultural purposes by at least all the residents of the PRD.

Provisions shall be made for the open space to be held in common, equally, by all the owners of the PRD. Such provision shall further hold that all the open space shall be readily accessible to all the residents of the PRD and that such open space shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, recreation, or park. No building or construction whether it be structures or septic systems shall take place in the open space. Harvesting of trees in the open space is permitted if it is done according to good forestry practice and with the expressed permission of the Planning Board. 3-13-84

#### BONUSES: 3-10-98

The Board shall review the proposed PRD and consider the extent to which it meets or addresses the objectives set forth in this ordinance and may, in its judgment, grant density bonuses not to exceed those indicated below.

Item	Maximum % Increase in Density
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Recreation Facilities	5%
Phasing	5 Years - 10%
	10 Years - 20%
Conservation	5% for each 5% of net tract area places in conservation easement and/or set aside for trails to integrate with the Town trail system as determined by the Conservation Commission.
Low and Moderate Cost Housing	30% if between 20% and 40% of the total number of bedrooms which are located with dwelling units which are low to moderate cost housing.
Bedroom Count	40% if the units are of one or two bedrooms (3-13-01)

#### ARCHITECTURAL DESIGN:

As a condition of final approval, the applicant must obtain the Board's approval of the external architectural design of the PRD to ensure that it complies with the goals of harmonious existence with the neighborhood and the environment as stated in the paragraph on PURPOSE at the beginning of this Ordinance. The approval of the architectural design shall be a part of the Final Review approval.

#### LIMITATION OF SUBDIVISION:

No lot shown on a plan for which a permit is granted under this Ordinance may be further subdivided and a note to this effect shall be placed on the Final Plan.

#### OTHER PROVISIONS:

If lots are to be created within the PRD, then such individual lots shall be a minimum of 3/4 acres if on-site well and septic system are to be provided, or 1/2 acre if water is to be provided by off-site water supply system. Each PRD shall be subject to the Subdivision Regulations. Where there are differences between the PRD requirements and the Subdivision Regulations, the requirements of the PRD shall prevail. All other regulations and restrictions not specifically mentioned in this Ordinance shall be those of the Zone in which the PRD is located. At a minimum there shall be a fifty (50) foot setback from the property line around the perimeter of the property. (11-2-82) 3-13-90 3-10-98

(3.8.05)

**Principal Route of Access** A principal route of access within the meaning of this Ordinance shall be deemed to consist of any road, street, highway which is maintained. 3-3-75

**Primary Recharge Area** The area immediately overlying the stratified drift aquifer and adjacent areas of stratified drift which may not have sufficient thickness to be part of the Aquifer. The boundary of the primary recharge area is the contact between stratified drift and adjacent till or bedrock. 3-13-84

**Private Road** A road or road system layout, on private property, from the public road to the development. Such private property and private road shall be permanently encumbered with deed restrictions, satisfactory to Town Counsel, which shall insure that the private road does not become a Town road. 3-10-87

**Professional Office** A professional office shall be one, or a combination of the following type: doctors, dentist, lawyers, engineers, surgeons, veterinary clinic, accountants, architects.

**Reduced Frontage**

A minimum of thirty-five (35) feet of frontage on a publicly maintained road. There are two classes of reduced frontage :

Class A frontage provides access to one building lot

Class B frontage provides access to two building lots 3-10-87

(See Section 5-2, Subdivision Regulations re: Reduced Frontage Lots)

**Seasonal** Any non-residential use which is intended to operate only during specific periods of the year. Such use may include temporary structures. Seasonal uses shall be subject to site plan review. Planning Board may also require removal of any temporary buildings or other structures during the off-season. 3-11-93

**Secondary Recharge Area** The land adjacent to primary recharge area from which ground water moves down a gradient into the aquifer. 3-11-84

**Shopping Center** A group of businesses centrally arranged and identified by a common ground sign. 3-13-90

**Sign** (3-12-63) See Section 3-4 3-12-91

**Sign Advertising** (3-12-63) See section 3-4, Off premise Signs 3-12-91

**Special Exception Use** A use which because of its unique characteristics requires individual consideration in each case before it can become permitted in the Zone enumerated. 3-12-63

**Story** That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above . (Crawl spaces, unfinished and unoccupied attic spaces, cellars when not to be occupied shall not be considered a story.) 3-11-86

**Structure** Anything constructed or assembled. The term structure shall not include radio towers or antennae which are for the exclusive use of amateur radio service and they shall be limited to a total height of 150 feet. (3-12-63/3-9-82) 3-12-85

**Temporary Structure** Any structure designed to be movable or disassembled, which does not permanently alter the land or buildings on the lot. Temporary structures shall not have utilities or plumbing. Such structures shall be subject to ordinary requirements of the zone (setbacks, floor area ratio, green space, height, etc.) and may require non-residential site review. 3-11-93

**Utility** Any public service subscribed to by an owner and/or tenant of a site which does not require surface transportation. 11-2-85

**Water Resource Management Plan** A written plan containing maps, base line data, and provisions for the protection of surface water, ground water and important wildlife resources associated with a development project.